

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 632**

Introduced by Pahls, 31

Read first time January 19, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section  
2 28-1201, Reissue Revised Statutes of Nebraska, and  
3 section 28-101, Revised Statutes Supplement, 2004; to  
4 create the offenses of unlawful possession of a firearm  
5 or ammunition pursuant to a domestic assault conviction  
6 and unlawful possession of a firearm or ammunition while  
7 subject to a protection order; to provide an exception  
8 for peace officers; to provide penalties; to harmonize  
9 provisions; and to repeal the original sections.  
10 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-101, Revised Statutes Supplement,  
2   2004, is amended to read:

3           28-101. Sections 28-101 to 28-1350 and sections 3 to 7  
4 of this act shall be known and may be cited as the Nebraska  
5 Criminal Code.

6           Sec. 2. Section 28-1201, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           28-1201. For purposes of sections 28-1201 to 28-1212 and  
9 sections 3 to 7 of this act, unless the context otherwise requires:

10           (1) Firearm ~~shall mean~~ means any weapon which is designed  
11 to or may readily be converted to expel any projectile by the  
12 action of an explosive or frame or receiver of any such weapon;

13           (2) Fugitive from justice ~~shall mean~~ means any person who  
14 has fled or is fleeing from any peace officer to avoid prosecution  
15 or incarceration for a felony;

16           (3) Juvenile ~~shall mean~~ means any person under the age of  
17 eighteen years;

18           (4) Knife ~~shall mean~~ means any dagger, dirk, knife, or  
19 stiletto with a blade over three and one-half inches in length or  
20 any other dangerous instrument capable of inflicting cutting,  
21 stabbing, or tearing wounds;

22           (5) Knuckles and brass or iron knuckles ~~shall mean~~ means  
23 any instrument that consists of finger rings or guards made of a  
24 hard substance and that is designed, made, or adapted for the  
25 purpose of inflicting serious bodily injury or death by striking a  
26 person with a fist enclosed in the knuckles;

27           (6) Machine gun ~~shall mean~~ means any firearm, whatever  
28 its size and usual designation, that shoots automatically more than

1 one shot, without manual reloading, by a single function of the  
2 trigger;

3 (7) Short rifle ~~shall mean~~ means a rifle having a barrel  
4 less than sixteen inches long or an overall length of less than  
5 twenty-six inches; and

6 (8) Short shotgun ~~shall mean~~ means a shotgun having a  
7 barrel or barrels less than eighteen inches long or an overall  
8 length of less than twenty-six inches.

9 Sec. 3. Any person who possesses a firearm or ammunition  
10 and has been convicted of domestic assault under section 28-323 is  
11 guilty of unlawful possession of a firearm or ammunition pursuant  
12 to a domestic assault conviction.

13 Sec. 4. Except as provided in section 5 of this act, any  
14 person who possesses a firearm or ammunition while subject to a  
15 protection order issued pursuant to section 42-924, which order was  
16 issued after a hearing for which the person received actual notice  
17 and was provided an opportunity to participate prior to issuance of  
18 the order, is guilty of unlawful possession of a firearm or  
19 ammunition while subject to a protection order.

20 Sec. 5. (1) In any case under section 4 of this act  
21 involving a peace officer who as a condition of employment is  
22 required to and whose personal safety depends upon the ability to  
23 carry a firearm, the court may allow the peace officer to continue  
24 to carry a firearm, either on duty or off duty, if the court finds,  
25 by a preponderance of the evidence, that the peace officer does not  
26 pose a threat of harm to himself or herself or to any family or  
27 household members as defined in section 42-903.

28 (2) Prior to making a finding under subsection (1) of

1 this section, the court shall require a psychological evaluation of  
2 the peace officer and may require the peace officer to enter into  
3 counseling or some other remedial treatment program to deal with  
4 any propensity for domestic violence.

5           Sec. 6. Any firearm in the possession of a person in  
6 violation of section 3 or 4 of this act shall be confiscated by a  
7 peace office. Such firearm shall be held by the agency employing  
8 the peace officer until it no longer is required as evidence.

9           Sec. 7. A violation of section 3 or 4 of this act is a  
10 Class IV felony.

11           Sec. 8.   Original section 28-1201, Reissue Revised  
12 Statutes of Nebraska, and section 28-101, Revised Statutes  
13 Supplement, 2004, are repealed.